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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,723	07/17/2006	William M. Heyn	WHP-P1-PCT	8712

7590 09/01/2010
William H. Holt
Law Offices of William H. Holt
12311 Harbor Drive
Woodbridge, VA 22192

EXAMINER

SULLIVAN, DEBRA M

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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09/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,723	Applicant(s) HEYN, WILLIAM M.	
	Examiner DEBRA M. SULLIVAN	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification and drawings fail to provide support for the limitations “peelably securing a peripheral portion of an end panel” and “whereby said end panel is maintained in

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shear with said annular flange portion and is peelable therefrom”. The specification states on page 3 that the “product can be removed from the container 12 by rupturing the end panel 20 or peeling it to remove it from the flange portion 16” however this disclosure is related to the prior art and not the claimed invention. Therefore the specification is absent of a peelable end panel as currently claimed; furthermore the drawings fails to show a peelable end panel.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation “peelably securing” renders the claim indefinite because it is unclear how a peripheral portion is to be secured to a flange portion if it is peelable. The examiner is interpreting the limitation to claim that the peripheral portion of a peelable end panel is secured to the planar disposed flange portion.

Claim Rejections - 35 USC § 103

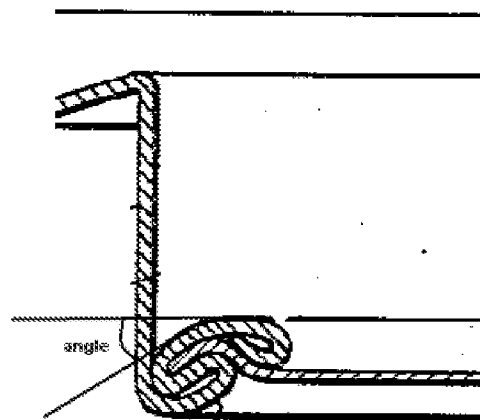
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsch et al (US 1,866,469) in view of Admitted Prior Art. In reference to claim 1, as best understood, Hirsch et al discloses a method for applying an end panel (14) to a closure ring (2) for a container (1) wherein the closure ring (2) includes an inwardly directed annular flange portion (13) having a

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central opening for filling and emptying an associated container, the flange portion (13) being initially disposed in a plane in a planar configuration, the method including the step of securing a peripheral portion of an end panel (14) for the container (1) to the planar disposed flange portion (13) and displacing the flange portion (13), with the end panel (14) secured thereto, from the plane to an angle thereto for forming an angle with the plane [as seen in figure 9, the flange portion (13) is displaced downward and bent as indicated by the arrow in figure 8 thereby forming an angle with the plane; see figure below] prior to securing the ring member (2) and the end panel (14) to a container (1), whereby the end panel is maintained in shear with the annular flange portion [See FIGS 1, 2, 8 & 9; col. 2 lines 64-70]. Hirsch et al discloses the invention substantially as claimed except for wherein the end panel is peelable from the flange portion. However, Applicant discloses on page 3 lines 4-6 that it is known in the art to provide a peelable end panel attached to the flange portion in order to remove product from the interior of the container. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the end panel of Hirsh et al to be peelable in order to provide easy removal from the flange portion to remove product from the container.



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In reference to claims 2 and 3, Hirsch et al further discloses the angle to be within a range between 5 and 45 degrees and approximately 25 degrees, as seen in figures 2 and 9. It is further noted that Applicant has failed to provide any criticality for the specified angle and the importance or problem it overcomes [See pg. 3 line 32 – pg. 4 line 1].

In reference to claims 4, 5 and 7, the admitted prior art discloses that it is old and well known in the closure manufacturing art to provide a thermoplastic material as a closure member (end panel) to an annular ring and to affix the closure member (end panel) with heat and adhesive [See Background of the Invention]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Hirsch et al to include a heating and adhesive step and provide a thermoplastic material for the end panel since it is taught to be old and well known in the art.

In reference to claim 6, Hirsch et al further discloses the end panel (14) is formed of foil [See col. 1 lines 27-33].

Response to Arguments

The newly presented amendments directed to the peelable end panel have overcome the previous rejection; therefore Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra Sullivan whose telephone number is (571) 272-1904. The examiner can normally be reached Monday - Friday 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached at (571) 272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Debra M Sullivan/
Examiner, Art Unit 3725

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